

# HOUSE BILL 365

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2lr2049  
CF SB 130

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By: **Delegates Mitchell, Glenn, Anderson, Branch, Carter, Clippinger, Conaway, Hammen, Haynes, McHale, McIntosh, Oaks, B. Robinson, Rosenberg, Stukes, Tarrant, and Washington**

Introduced and read first time: January 30, 2012

Assigned to: Environmental Matters

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 6, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Baltimore City – Nuisance Abatement and Local Code Enforcement –**  
3 **Community Associations**

4 FOR the purpose of altering the definition of “community association” under certain  
5 provisions of law relating to the standing of certain community associations in  
6 Baltimore City to seek judicial relief for abatement of certain nuisances;  
7 altering the definition of “nuisance” to repeal a certain requirement that a local  
8 code violation must diminish the value of neighboring property; altering the  
9 definition of “local code violation” to correct references to certain provisions of  
10 the Baltimore City Code; prohibiting a community association from filing an  
11 action if the community association receives certain information from a certain  
12 department regarding an active code enforcement plan; repealing a certain  
13 requirement that a community association must file a bond with the court  
14 before seeking nuisance abatement; repealing a certain provision that a  
15 community association may not be construed to have standing to pursue a  
16 nuisance action concerning a vacant dwelling that is boarded up, free from trash  
17 and debris, and secure against entry; clarifying that a certain housing authority  
18 in Baltimore City is not subject to an action brought under this Act; and  
19 generally relating to the right of community associations in Baltimore City to  
20 seek judicial abatement of certain nuisances.

21 BY repealing and reenacting, with amendments,  
22 Article – Real Property

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 14–123  
2 Annotated Code of Maryland  
3 (2010 Replacement Volume and 2011 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
5 MARYLAND, That the Laws of Maryland read as follows:

6 **Article – Real Property**

7 14–123.

8 (a) (1) In this section the following words have the meanings indicated.

9 (2) “Community association” means [a Maryland nonprofit  
10 association, corporation, or other organization that:

11 (i) Is comprised of at least 25 households or 25% of the  
12 households, whichever is less, of a local neighborhood consisting of 40 or more  
13 individual households as defined by specific geographic boundaries in the bylaws or  
14 charter of the association;

15 (ii) Requires, as a condition of membership, the voluntary  
16 payment of monetary dues at least annually;

17 (iii) Is operated primarily for the promotion of social welfare and  
18 general neighborhood improvement and enhancement;

19 (iv) Has been in existence for at least 2 years when it files suit  
20 under this section;

21 (v) 1. Is exempt from taxation under § 501(c)(3) or (4) of the  
22 Internal Revenue Code; or

23 2. Has been included for a period of at least 2 years prior  
24 to bringing an action under this section in Baltimore City’s Community Association  
25 Directory published by the Baltimore City Department of Planning; and

26 (vi) In the case of a Maryland corporation, is in good standing];

27 **(I) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER**  
28 **ORGANIZATION THAT IS:**

29 **1. COMPOSED OF RESIDENTS OF A COMMUNITY**  
30 **WITHIN WHICH A NUISANCE IS LOCATED;**

1                                   **2. OPERATED EXCLUSIVELY FOR THE PROMOTION**  
 2 **OF SOCIAL WELFARE AND GENERAL NEIGHBORHOOD IMPROVEMENT AND**  
 3 **ENHANCEMENT; AND**

4                                   **3. EXEMPT FROM TAXATION UNDER § 501(C)(3) OR**  
 5 **(4) OF THE INTERNAL REVENUE CODE; OR**

6                                   **(II) A NONPROFIT ASSOCIATION, CORPORATION, OR OTHER**  
 7 **ORGANIZATION THAT IS:**

8                                   **1. COMPOSED OF RESIDENTS OF A CONTIGUOUS**  
 9 **COMMUNITY THAT IS DEFINED BY SPECIFIC GEOGRAPHIC BOUNDARIES, WITHIN**  
 10 **WHICH A NUISANCE IS LOCATED; ~~AND~~**

11                                   **2. OPERATED FOR THE PROMOTION OF THE**  
 12 **WELFARE, IMPROVEMENT, AND ENHANCEMENT OF THAT COMMUNITY; AND**

13                                   **3. IN GOOD STANDING WITH THE STATE**  
 14 **DEPARTMENT OF ASSESSMENTS AND TAXATION.**

15                                   (3) “Local code violation” means a violation under the following  
 16 provisions of the Baltimore City Code as amended from time to time or under any  
 17 applicable code relating to the following provisions incorporated by Baltimore City by  
 18 reference:

19                                   ~~(i) The Fire Prevention Code under Article 9;~~

20                                   ~~(ii) Animal control, nuisance and disease prevention, and noise~~  
 21 ~~control subheadings of Article 11 (Health);~~

22                                   ~~(iii) The Housing Code under Article 13;~~

23                                   ~~(iv) Public nuisance provisions under Article 19;~~

24                                   ~~(v) Article 23;~~

25                                   ~~(vi) The Building Code of Baltimore City, Article 32; and~~

26                                   ~~(vii) The zoning ordinance of Baltimore City, Article 30.~~

27                                   **(I) NUISANCE CONTROL, WASTE CONTROL, AND NOISE**  
 28 **REGULATION TITLES OF THE HEALTH CODE OF BALTIMORE CITY;**

29                                   **(II) THE PUBLIC NUISANCE AND NEIGHBORHOOD NUISANCE**  
 30 **PROVISIONS UNDER CITY CODE ARTICLE 19, POLICE ORDINANCES;**



1                   (ii) An action under this section may not be brought if the  
2 appropriate code enforcement agency has filed an action for equitable relief from the  
3 nuisance.

4                   (3) (i) An action may not be brought under this section until 60  
5 days after the community association sends notice to the tenant, if any, and the owner  
6 of record that a nuisance exists and that legal action may be taken if the nuisance is  
7 not abated.

8                   (ii) The notice shall specify:

- 9                                 1. The nature of the alleged nuisance;
- 10                                2. The date and time of day the nuisance was first  
11 discovered;
- 12                                3. The location on the property where the nuisance is  
13 allegedly occurring; and
- 14                                4. The relief sought in the action.

15                   (iii) 1. The notice shall be provided to the tenant, if any, and  
16 the owner of record in the same manner as service of process in a civil in personam  
17 action under the Maryland Rules.

18                                2. Adequate and sufficient notice may be given to the  
19 tenant, if any, and the owner of record by sending a copy of the notice by regular mail  
20 and posting a copy of the notice on the property where the nuisance is allegedly  
21 occurring, if notice sent by certified mail is:

- 22                                A. Returned unclaimed or refused;
- 23                                B. Designated by the post office to be undeliverable for  
24 any other reason; or
- 25                                C. Signed for by a person other than the addressee.

26                   (iv) In filing a suit under this section, an officer of the  
27 community association shall certify to the court:

28                                1. What steps the community association has taken to  
29 satisfy the notice requirements under this subsection; and

30                                2. That each condition precedent to the filing of an  
31 action under this section has been met.

1           (4) [Relief may not be provided under this section unless the  
2 community association files with the court a bond in an amount determined by the  
3 court and with a surety approved by the court, conditioned to answer to the adverse  
4 party for any costs the party may sustain as a result of the suit, including reasonable  
5 attorney fees, if the court finds that the action was filed in bad faith or without  
6 substantial justification.

7           (5)] (i) An action may not be brought against an owner of  
8 residential rental property unless, prior to the giving of notice under subsection  
9 (c)(3)(i) of this section, a notice of violation relating to the nuisance has first been  
10 issued by an appropriate code enforcement agency.

11           (ii) In the case of a nuisance based on a housing or building code  
12 violation, other than a recurrent sanitation violation, relief may not be granted under  
13 this section unless a violation notice relating to the nuisance has been issued by the  
14 Department of Housing and Community Development and remains outstanding after  
15 a period of 75 days.

16           [(6)] (5) (i) If a violation notice is an essential element of the  
17 action, a copy of the notice signed by an official of the appropriate code enforcement  
18 agency shall be prima facie evidence of the facts contained in the notice.

19           (ii) A notice of abatement issued by the appropriate code  
20 enforcement agency in regard to the violation notice shall be prima facie evidence that  
21 the plaintiff is not entitled to the relief requested.

22           [(7)] (6) A proceeding under this section shall:

23           (i) Take precedence on the docket;

24           (ii) Be heard at the earliest practicable date; and

25           (iii) Be expedited in every way.

26           (d) A political subdivision of the State or any agency of a political subdivision  
27 **OR THE HOUSING AUTHORITY OF BALTIMORE CITY** may not be subject to any  
28 action brought under this section or an action resulting from an action brought under  
29 this section against a private property owner.

30           (e) (1) Subject to paragraph (2) of this subsection, this section may not be  
31 construed as to abrogate any equitable or legal right or remedy otherwise available  
32 under the law to abate a nuisance.

33           (2) This section may not be construed as to grant standing for an  
34 action:

35           (i) Challenging any zoning application or approval;

- 1                   (ii)    In which the alleged nuisance consists of:
- 2                            1.    A condition relating to lead paint; **OR**
- 3                            2.    An interior physical defect of a property[; or
- 4                            3.    A vacant dwelling that is maintained in a boarded
- 5 condition, free from trash and debris, and secure against trespassers and weather
- 6 entry];

7                   (iii)    Involving any violation of alcoholic beverages laws under

8 Article 2B of the Code; or

9                   (iv)    Involving any matter in which a certificate, license, permit,

10 or registration is required or allowed under the Environment Article.

11                SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect

12 October 1, 2012.

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.